

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER:

JOSE DAVID RIVAS RIVERA

Debtor(s)

FIRSTBANK PUERTO RICO

Movant

CASE NO.: 15-06070 (MCF)

CHAPTER 13

(X) An action against the State
under Title 11 USC §1307(c) (1) and
§1307(c) (6), Title 11 USC §1326

MOTION TO DISMISS

TO THE HONORABLE COURT:

Comes now Movant, **FIRSTBANK PUERTO RICO**, through its undersigning attorney, and very respectfully ALLEGES, STATES and PRAYS:

1. This Honorable Court have jurisdiction under Title 28 USC §1334, and venue under Title 28 USC §1408, and particularly regarding this matter under Title 11 USC §1307(c) (1), (4) and (6), on Conversions and Dismissals, and Title 11 USC §1326, on Payments.

2. Debtor filed a bankruptcy case under chapter 13 back on August 7, 2015. *Bkcy Dck no 1*

3. MOVANT, standing to address this court is ascertained as filed a secured lien proof of claim, on a personal security loan, with an outstanding debt of \$21,138.71, under account no 9312. *Clm Reg.3*

4. As of to August 10, 2016 debtor(s) already had the following installments owed to the chapter 13 Trustee: \$1,800.00, for TWO (2) months in arrears. *See Exhibit A*

5. Under the terms of the confirmed plan dated May 9, 2016 debtor(s) should have started to make continues payments since September 8, 2015, and as evidenced herein, the debtor(s) have failed to do so. *Bkcy Dck no 1, 45, and 53*

6. Pursuant to the Service Members Civil Relief Act: - the data banks of the Department of the Defense Manpower Data Center confirmed that the debtor(s) is (are) not member(s) of the Uniformed Services (US Armed Forces, Navy, Marine Corps, Air Force, NOAA, Public Health, and Cost Guard.) *See Exhibit B*

For the reasons stated above, MOVANT respectfully request from this Court to enter an order dismissing the present case pursuant Title 11 USC §1307(c)(1) on *Unreasonable delay by debtor that*

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FIRSTBANK Puerto Rico
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~~is prejudicial to Creditors, (5) denial of confirmation of a plan under 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan, 11 USC §1326 (a) (1) Unless the court orders otherwise, the debtor shall commence making the payments proposed by a plan within 30 days after the plan is filed, payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, and (6) on Material default by the debtor with respect to a term of a confirmed plan, and Title 11 USC §1324 (b) on hearing of confirmation that shall to be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341 (a).~~

The aforementioned request of dismissal is based on congressional intent to prevent bankruptcy abuse

NOTICE

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this motion has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, this motion will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.
Puerto Rico Local Bankruptcy Rule 9013-1(h)

In San Juan, Puerto Rico, on August 22, 2016

CERTIFICATE OF SERVICE

I hereby certify that a copy was served by CM/ECF at the authorized address: - to all creditors, - to Atty. Alejandro Oliveras // Atty. José Carrión Morales, as Chapter 13 Trustee, and - to the attorney of the debtor(s) VICTOR GRATACOS DIAZ, and to debtor(s) by regular mail at the address on record, JOSE DAVID RIVAS RIVERA, at PO BOX 6592, CAGUAS, PUERTO RICO 00725.

BY: /s/ María M. Benabe Rivera
María M. Benabe Rivera
Attorney for Movant - US - DC 208906
Maricarmen Colón Díaz - US - DC 211410
FIRSTBANK Puerto Rico
Centro de Servicios al Consumidor - Código 248
1130 Muñoz Rivera Ave., Río Piedras, P R
PO Box 9146, San Juan, PR 00908-0146
maria.benabe@firstbankpr.com
(787)729-8135 / (787)729-8276 / [Rev.10/2015]

FIRSTBANK

Analysis Sheet to Determine Arrears to Trustee

In Re : JOSE D RIVAS RIVERA

Case Number : 15-06070 MCF/JRC

Account Number : 9312 (AUTO)

Date of File : 08/07/15

Amount of Proof of Claim : 21,138.71

Plan : 400X1 (400) 800X12 (1,600) 400X1 (400)
800X3 (2,400) 900X53 (47,700)

Monthly Payment of : 900

Pass term : 12

Total paid in to plan : 7,500

Should have paid in : 9,300

Amount in Arrears : 1,800 (2 ARREARS)

Printed on : 08/10/16

Prepared by : Eva Jiménez

Exhibit A

PRINT INQUIRY

[Close Window](#)

[Click Here to Print this Page](#)

15-06070-MCF		JOSE DAVID RIVAS RIVERA (xxx-xx-2818)	PO BOX 6592 • • CAGUAS • PR • 00725	\$900.00 MO	Bar Date(s): 12/9/2015 (has passed) 2/3/2016 (has passed)
Trustee: José R. Carrión		Attorney: VICTOR GRATACOS DIAZ*		Confirmed: 6/2/2016	Case Status: ACTIVE

Debtor Pay Schedules

Start Date	Number Periods	Amount	How Often	Who's Paying	Order Date	Action
9/6/2015	1.00	\$400.00	MONTHLY	JOSE DAVID RIVAS RIVERA	5/5/2016	
10/6/2015	2.00	\$800.00	MONTHLY	JOSE DAVID RIVAS RIVERA	5/5/2016	
12/6/2015	1.00	\$400.00	MONTHLY	JOSE DAVID RIVAS RIVERA	5/5/2016	
1/6/2016	3.00	\$800.00	MONTHLY	JOSE DAVID RIVAS RIVERA	5/5/2016	
4/6/2016	29.00	\$900.00	MONTHLY	JOSE DAVID RIVAS RIVERA	5/5/2016	
9/6/2018	1.00	\$5,400.00	MONTHLY	JOSE DAVID RIVAS RIVERA	5/10/2016	
10/6/2018	23.00	\$900.00	MONTHLY	JOSE DAVID RIVAS RIVERA	5/10/2016	
9/6/2020	end of plan	\$0.00	MONTHLY	JOSE DAVID RIVAS RIVERA	5/10/2016	

Forgive Information

Date	Amount	Description
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Payments Expected for Step 1:

Period	Start Date	End Date	Payment Amount Expected	Total
1	9/6/2015	10/5/2015	\$400.00	\$400.00
Total				\$400.00

Payments Expected for Step 2:

Period	Start Date	End Date	Payment Amount Expected	Total
1	10/6/2015	11/5/2015	\$800.00	\$800.00
2	11/6/2015	12/5/2015	\$800.00	\$1,600.00
Total				\$1,600.00

Payments Expected for Step 3:

Period	Start Date	End Date	Payment Amount Expected	Total
1	12/6/2015	1/5/2016	\$400.00	\$400.00
Total				\$400.00

Payments Expected for Step 4:

Period	Start Date	End Date	Payment Amount Expected	Total
1	1/6/2016	2/5/2016	\$800.00	\$800.00
2	2/6/2016	3/5/2016	\$800.00	\$1,600.00
3	3/6/2016	4/5/2016	\$800.00	\$2,400.00
Total				\$2,400.00

Payments Expected for Step 5:

Period	Start Date	End Date	Payment Amount Expected	Total
1	4/6/2016	5/5/2016	\$900.00	\$900.00
2	5/6/2016	6/5/2016	\$900.00	\$1,800.00
3	6/6/2016	7/5/2016	\$900.00	\$2,700.00
4	7/6/2016	8/5/2016	\$900.00	\$3,600.00
5	8/6/2016	9/5/2016	\$900.00	\$4,500.00
6	9/6/2016	10/5/2016	\$900.00	\$5,400.00
7	10/6/2016	11/5/2016	\$900.00	\$6,300.00
8	11/6/2016	12/5/2016	\$900.00	\$7,200.00
9	12/6/2016	1/5/2017	\$900.00	\$8,100.00
10	1/6/2017	2/5/2017	\$900.00	\$9,000.00
11	2/6/2017	3/5/2017	\$900.00	\$9,900.00
12	3/6/2017	4/5/2017	\$900.00	\$10,800.00
13	4/6/2017	5/5/2017	\$900.00	\$11,700.00
14	5/6/2017	6/5/2017	\$900.00	\$12,600.00
15	6/6/2017	7/5/2017	\$900.00	\$13,500.00
16	7/6/2017	8/5/2017	\$900.00	\$14,400.00
17	8/6/2017	9/5/2017	\$900.00	\$15,300.00
18	9/6/2017	10/5/2017	\$900.00	\$16,200.00
19	10/6/2017	11/5/2017	\$900.00	\$17,100.00
20	11/6/2017	12/5/2017	\$900.00	\$18,000.00
21	12/6/2017	1/5/2018	\$900.00	\$18,900.00
22	1/6/2018	2/5/2018	\$900.00	\$19,800.00
23	2/6/2018	3/5/2018	\$900.00	\$20,700.00
24	3/6/2018	4/5/2018	\$900.00	\$21,600.00
25	4/6/2018	5/5/2018	\$900.00	\$22,500.00
26	5/6/2018	6/5/2018	\$900.00	\$23,400.00
27	6/6/2018	7/5/2018	\$900.00	\$24,300.00
28	7/6/2018	8/5/2018	\$900.00	\$25,200.00
Total				\$25,200.00

Payments Expected for Step 6:

Period	Start Date	End Date	Payment Amount Expected	Total
1	9/6/2018	10/5/2018	\$6,400.00	\$6,400.00
Total				\$6,400.00

Payments Expected for Step 7:

Period	Start Date	End Date	Payment Amount Expected	Total
1	10/6/2018	11/5/2018	\$900.00	\$900.00
Total				\$900.00

Payments Expected for Step 8:

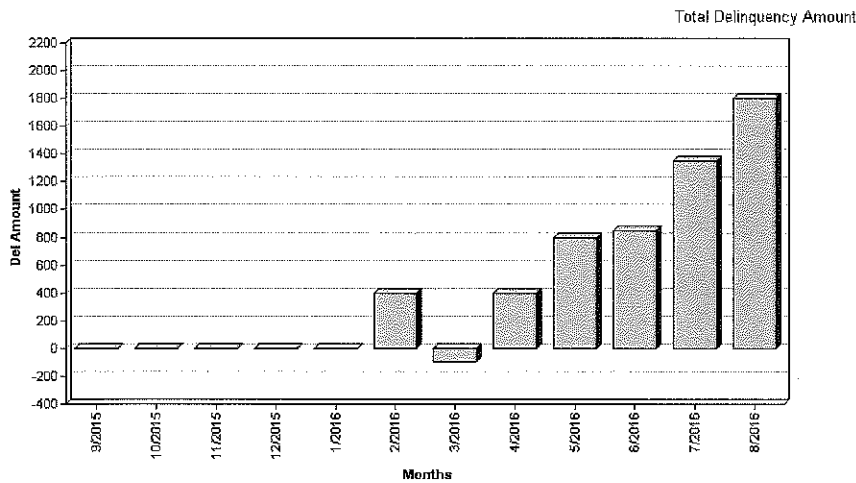
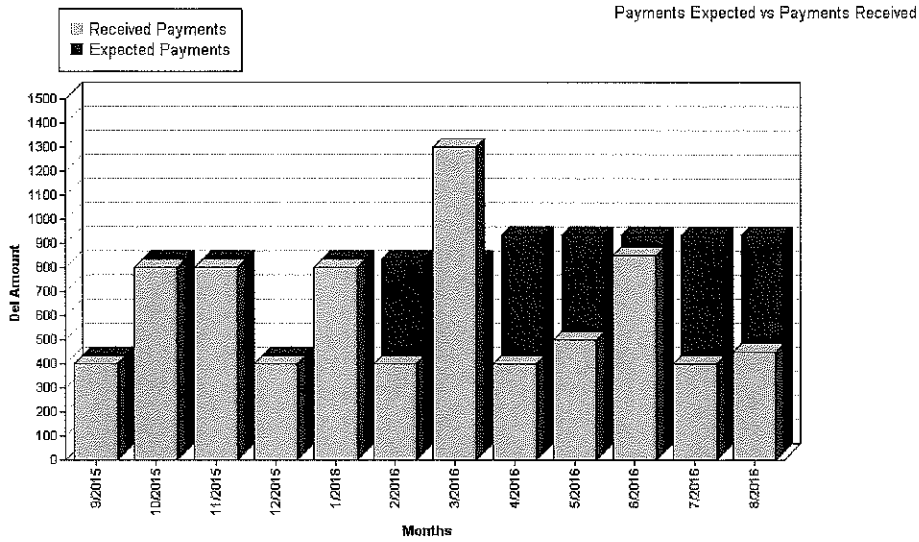
Period	Start Date	End Date	Payment Amount Expected	Total
1	9/6/2020	10/5/2020	\$0.00	\$0.00
Total				\$0.00

Breakdown for Combined Schedules

Period	Date (Month/Year)	Payment Due	Payment Received	Forgive Amount	Amount Due
1	9/2015	\$400.00	\$400.00		\$0.00

2	10/2015	\$800.00	\$800.00	\$0.00
3	11/2015	\$800.00	\$800.00	\$0.00
4	12/2015	\$400.00	\$400.00	\$0.00
5	1/2016	\$800.00	\$800.00	\$0.00
6	2/2016	\$800.00	\$400.00	\$400.00
7	3/2016	\$800.00	\$1,300.00	(\$100.00)
8	4/2016	\$900.00	\$400.00	\$400.00
9	5/2016	\$900.00	\$500.00	\$800.00
10	6/2016	\$900.00	\$850.00	\$850.00
11	7/2016	\$900.00	\$400.00	\$1,350.00
12	8/2016	\$900.00	\$450.00	\$1,800.00

Total Delinquent Amount: \$1,800.00



Department of Defense Manpower Data Center

Results as of : Aug-10-2016 02:00:11 PM

SCRA 3.0



**Status Report
Pursuant to Servicemembers Civil Relief Act**

Last Name: RIVAS RIVERA

First Name: JOSE

Middle Name: D

Active Duty Status As Of: Aug-10-2016

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Mary M. Snavelly-Dixon

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Arlington, VA 22350

Exhibit B

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via this URL:

<https://kb.defense.gov/PublicQueries/publicQuestions/FaqsAnswers.jsp?Subject=Locating Service Members or Getting a Mailing Address>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: J9N63F5F7399SA0

Label Matrix for local noticing
0104-3
Case 15-06070-MCF13
District of Puerto Rico
Old San Juan
Wed Aug 10 15:14:31 AST 2016

PR FEDERAL CREDIT UNION
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%AT&T SERVICES INC.
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End of Label Matrix
Mailable recipients 18
Bypassed recipients 0
Total 18

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